

ESTTA Tracking number: **ESTTA268662**

Filing date: **02/25/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Rolex Watch U.S.A., Inc.
Granted to Date of previous extension	03/04/2009
Address	665 Fifth Avenue New York, NY 10022 UNITED STATES
Attorney information	Peter Cousins Gibney, Anthony & Flaherty, LLP 665 Fifth Avenue New York, NY 10022 UNITED STATES pcousins@gibney.com Phone:212-688-5151

Applicant Information

Application No	77492131	Publication date	11/04/2008
Opposition Filing Date	02/25/2009	Opposition Period Ends	03/04/2009
Applicant	AFP Imaging Corporation 250 Clearbrook Road Elmsford, NY 10523 UNITED STATES		

Goods/Services Affected by Opposition

Class 010. All goods and services in the class are opposed, namely: x-ray tables for medical and dental use
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Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	101819	Application Date	06/08/1914
Registration Date	01/12/1915	Foreign Priority Date	NONE
Word Mark	ROLEX		

Design Mark	ROLEX
Description of Mark	NONE
Goods/Services	Class U027 (International Class 014). First use: First Use: 1912/00/00 First Use In Commerce: 1912/00/00 WATCHES, CLOCKS, PARTS OF WATCHES AND CLOCKS, AND THEIR CASES

Attachments	71078904#TMSN.gif (1 page)(bytes) ROLL-X Notice of Opp.pdf (3 pages)(1689904 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Peter Cousins/
Name	Peter Cousins
Date	02/25/2009

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 77492131
Mark opposed: ROLL-X
Filing Date: June 5, 2008
Published in the Official Gazette on: November 4, 2008

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ROLEX WATCH U.S.A., INC.,	:	
	:	
Opposer,	:	
	:	
v.	:	
	:	
AFP IMAGING CORPORATION,	:	
	:	
Applicant	:	
-----	X	

NOTICE OF OPPOSITION

Rolex Watch U.S.A., Inc. ("Rolex" or "Opposer"), a New York corporation with a business address of 665 Fifth Avenue, New York, New York 10022, hereby opposes registration of the trademark ROLL-X which is the subject matter of Application Serial No. 77492131, in Int. CL. 10.

As grounds in support of this opposition, Opposer alleges as follows:

1. Opposer (including its predecessors in interest) is now and for many years has been engaged in the business of marketing and selling high-quality watches in the United States under the mark ROLEX ("Rolex Mark").
2. Opposer is the owner of the following United States Principal Register registration which is valid, subsisting, unrevoked, uncanceled and incontestable:

Trademark	Registration No.	Registration Date	Goods
ROLEX	0101819	01/12/1915	Watches, clocks, parts of watches and clocks, and their cases.

3. The ROLEX Mark is distinctive
4. Opposer has promoted its ROLEX Mark extensively in its advertising and promotional materials.
5. By virtue of Opposer's extensive distribution, sale, promotion, and advertising of products under its ROLEX Mark, and the high quality of the products sold under the mark, the ROLEX Mark has become famous and widely recognized in the United States as designating high quality products originating exclusively from Opposer.
6. Applicant, on June 5, 2008, filed an application to register ROLL-X in International Class 10, Serial No. 77492131.
7. Opposer's ROLEX Mark became famous long prior to Applicant's attempt to register the ROLL-X mark.
8. The ROLL-X and ROLEX marks are very similar in appearance.
9. The ROLL-X and ROLEX marks are identical in sound.
10. The ROLEX mark is a coined term and has no meaning other than as a trademark.
11. The ROLL-X mark is a coined term and has no meaning other than as a trademark.
12. Applicant's ROLL-X mark so resembles Opposer's previously used and registered ROLEX Mark as to be likely to cause confusion, mistake, or deception in violation of Section 2(d) of the Trademark Act (15 U.S.C. §1052(d)).
13. Applicant's use of the ROLL-X mark is likely to cause dilution by blurring, impairing the distinctiveness of the ROLEX Mark in violation of Section 43(c) of the Trademark Act (15 U.S.C. §1125(c)).

14. Applicant's use of the ROLL-X mark is likely to cause dilution by tarnishment, harming the reputation of the ROLEX Mark in violation of Section 43(c) of the Trademark Act (15 U.S.C. §1125(c)).
15. Applicant has made no significant monetary investment in the sale, promotion or advertising of its mark.
16. Applicant was aware of Opposer's rights before the filing date of the subject application.
17. The registration of Applicant's mark will improperly give to Applicant the appearance of exclusive statutory ownership rights in a mark that is confusingly similar to the ROLEX Mark in violation and derogation of the prior and superior rights of Opposer.
18. By reason of the foregoing, Opposer believes that it shall be irreparably damaged by the registration of Applicant's mark.

WHEREFORE, it is respectfully requested that this Opposition be sustained and that registration to Applicant be refused.

Respectfully submitted,

ROLEX WATCH U.S.A., INC.

Dated: February 25, 2009

By:



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